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Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10
11 In the Matter of the Petition to Revoke
Probation Against,

Case No. 2012-549

PETITION TO REVOKE PROBATION

12 **RACHEL ELIZABETH ZUCCO**
13 **5910 S.E. 41st Avenue**
14 **Portland, OR 97202**

15 **Registered Nurse License No. 785263**

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Petition to Revoke Probation
20 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
21 Department of Consumer Affairs.

22 2. On or about October 11, 2010, the Board of Registered Nursing issued Registered
23 Nurse License Number 785263 to Rachel Elizabeth Zucco (Respondent). The Registered Nurse
24 License was in effect at all times relevant to the charges brought herein and will expire on July
25 31, 2014, unless renewed.

26 3. In a disciplinary action entitled "In the Matter of Accusation Against Rachel
27 Elizabeth Zucco," Case No. 2012-549, the Board of Registered Nursing issued a decision,
28 effective October 24, 2012, in which Respondent's Registered Nurse License was revoked.

1 However, the revocation was stayed and Respondent's Registered Nurse License was placed on
2 probation for a period of three (3) years with certain terms and conditions. A copy of that
3 decision is attached as Exhibit A and is incorporated by reference.

4 JURISDICTION

5 4. This Petition to Revoke Probation is brought before the Board of Registered Nursing
6 (Board), Department of Consumer Affairs.

7 5. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent
8 part, that the Board may discipline any licensee, including a licensee holding a temporary or an
9 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the
10 Nursing Practice Act.

11 FIRST CAUSE TO REVOKE PROBATION

12 (Comply with the Board's Probation Program)

13 6. At all times after the effective date of Respondent's probation, Condition 2 stated:

14 Comply with the Board's Probation Program. Respondent shall fully
15 comply with the conditions of the Probation Program established by the Board and
16 cooperate with representatives of the Board in its monitoring and investigation of
17 the Respondent's compliance with the Board's Probation Program. Respondent
18 shall inform the Board in writing within no more than 15 days of any address
19 change and shall at all times maintain an active, current license status with the
20 Board, including during any period of suspension.

21 Upon successful completion of probation, Respondent's license shall be fully
22 restored.

23 7. Respondent's probation is subject to revocation because she failed to comply with
24 Probation Condition 2, referenced above. The facts and circumstances regarding this violation
25 are as follows:

26 A. On or about January 14, 2013, Respondent tested positive for alcohol and cocaine
27 use.

28 SECOND CAUSE TO REVOKE PROBATION

(Abstain from Use of Psychotropic (Mood-Altering) Drugs)

8. At all times after the effective date of Respondent's probation, Condition 16 stated:

Abstain from Use of Psychotropic (Mood-Altering) Drugs. Respondent
shall completely abstain from the possession, injection or consumption by any
route of all controlled substances and all psychotropic (mood altering) drugs,

including alcohol, except when the same are ordered by a health care professional legally authorized to do so as part of documented medical treatment. Respondent shall have sent to the Board, in writing and within fourteen (14) days, by the prescribing health professional, a report identifying the medication, dosage, the date the medication was prescribed, the Respondent's prognosis, the date the medication will no longer be required, and the effect on the recovery plan, if appropriate.

Respondent shall identify for the Board a single physician, nurse practitioner or physician assistant who shall be aware of Respondent's history of substance abuse and will coordinate and monitor any prescriptions for Respondent for dangerous drugs, controlled substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report to the Board on a quarterly basis Respondent's compliance with this condition. If any substances considered addictive have been prescribed, the report shall identify a program for the time limited use of any such substances.

The Board may require the single coordinating physician, nurse practitioner, or physician assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive medicine.

9. Respondent's probation is subject to revocation because she failed to comply with Probation Condition 16, referenced above. The facts and circumstances regarding this violation are as follows:

A. On or about January 14, 2013, Respondent tested positive for alcohol and cocaine use.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking the probation that was granted by the Board of Registered Nursing in Case No. 2012-549 and imposing the disciplinary order that was stayed thereby revoking Registered Nurse License No. 785263 issued to Rachel Elizabeth Zucco;

2. Revoking or suspending Registered Nurse License No. 785263, issued to Rachel Elizabeth Zucco;

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1 3. Taking such other and further action as deemed necessary and proper.
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4 DATED: MARCH 18, 2013

for 
LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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Exhibit A

Decision and Order

Board of Registered Nursing Case No. 2012-549

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

RACHEL ELIZABETH ZUCCO
1387 ½ Sunset Avenue
Arcata, CA 95521

Registered Nurse License No. 785263

Respondent

Case No. 2012-549

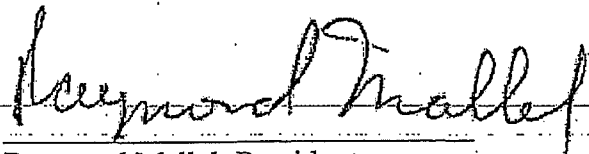
OAH No. 2012040117

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on October 24, 2012.

IT IS SO ORDERED September 24, 2012.



Raymond Mallel, President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 CHAR SACHSON
Deputy Attorney General
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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2012-549

13 **RACHEL ELIZABETH ZUCCO**
14 1387 1/2 Sunset Ave.
Arcata, CA 95521

OAH No. 2012040117

15 Registered Nursing License No. 785263

16 **STIPULATED SETTLEMENT AND**
17 **DISCIPLINARY ORDER**

18 Respondent.

19 In the interest of a prompt and speedy settlement of this matter, consistent with the public
20 interest and the responsibility of the Board of Registered Nursing of the Department of Consumer
21 Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order
22 which will be submitted to the Board for approval and adoption as the final disposition of the
23 Accusation.

24 **PARTIES**

25 1. Louise R. Bailey, M.Ed., RN (Complainant) is the Interim Executive Officer of the
26 Board of Registered Nursing. She brought this action solely in her official capacity and is
27 represented in this matter by Kamala D. Harris, Attorney General of the State of California, by
28 Char Sachson, Deputy Attorney General.

2. Respondent Rachel Elizabeth Zucco (Respondent) is represented in this proceeding by attorney Adam G. Slote, whose address is: 255 California Street, Suite 1300, San Francisco, CA 94111.

3. On or about October 11, 2010, the Board of Registered Nursing issued Registered Nursing License No. 785263 to Rachel Elizabeth Zucco (Respondent). The Registered Nursing License was in full force and effect at all times relevant to the charges brought in Accusation No. 2012-549 and will expire on July 31, 2014, unless renewed.

JURISDICTION

4. Accusation No. 2012-549 was filed before the Board of Registered Nursing (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on March 15, 2012. Respondent timely filed her Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 2012-549 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 2012-549. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

1 CULPABILITY

2 9. Respondent admits the truth of each and every charge and allegation in Accusation
3 No. 2012-549.

4 10. Respondent agrees that her Registered Nursing License is subject to discipline and
5 she agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order
6 below.

7 CIRCUMSTANCES IN MITIGATION

8 11. Respondent Rachel Elizabeth Zucco has never been the subject of any disciplinary
9 action. She is admitting responsibility at an early stage in the proceedings.

10 CONTINGENCY

11 12. This stipulation shall be subject to approval by the Board of Registered Nursing.
12 Respondent understands and agrees that counsel for Complainant and the staff of the Board of
13 Registered Nursing may communicate directly with the Board regarding this stipulation and
14 settlement, without notice to or participation by Respondent or her counsel. By signing the
15 stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek
16 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
17 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
18 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
19 action between the parties, and the Board shall not be disqualified from further action by having
20 considered this matter.

21 13. The parties understand and agree that facsimile copies of this Stipulated Settlement
22 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
23 effect as the originals.

24 14. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
25 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
26 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
27 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
28

Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

15. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Registered Nursing License No. 785263 issued to Respondent Rachel Elizabeth Zucco (Respondent) is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

Severability Clause. Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

1. **Obey All Laws.** Respondent shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by Respondent to the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this condition, Respondent shall submit completed fingerprint forms and fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the licensure application process.

Criminal Court Orders: If Respondent is under criminal court orders, including probation or parole, and the order is violated, this shall be deemed a violation of these probation conditions, and may result in the filing of an accusation and/or petition to revoke probation.

2. **Comply with the Board's Probation Program.** Respondent shall fully comply with the conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the Respondent's compliance with the Board's Probation Program. Respondent shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license

1 status with the Board, including during any period of suspension.

2 Upon successful completion of probation, Respondent's license shall be fully restored.

3 3. **Report in Person.** Respondent, during the period of probation, shall appear in
4 person at interviews/meetings as directed by the Board or its designated representatives.

5 4. **Residency, Practice, or Licensure Outside of State.** Periods of residency or
6 practice as a registered nurse outside of California shall not apply toward a reduction of this
7 probation time period. Respondent's probation is tolled, if and when she resides outside of
8 California. Respondent must provide written notice to the Board within 15 days of any change of
9 residency or practice outside the state, and within 30 days prior to re-establishing residency or
10 returning to practice in this state.

11 Respondent shall provide a list of all states and territories where she has ever been licensed
12 as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide
13 information regarding the status of each license and any changes in such license status during the
14 term of probation. Respondent shall inform the Board if she applies for or obtains a new nursing
15 license during the term of probation.

16 5. **Submit Written Reports.** Respondent, during the period of probation, shall submit
17 or cause to be submitted such written reports/declarations and verification of actions under
18 penalty of perjury, as required by the Board. These reports/declarations shall contain statements
19 relative to Respondent's compliance with all the conditions of the Board's Probation Program.
20 Respondent shall immediately execute all release of information forms as may be required by the
21 Board or its representatives.

22 Respondent shall provide a copy of this Decision to the nursing regulatory agency in every
23 state and territory in which she has a registered nurse license.

24 6. **Function as a Registered Nurse.** Respondent, during the period of probation, shall
25 engage in the practice of registered nursing in California for a minimum of 24 hours per week for
26 6 consecutive months or as determined by the Board.

27 For purposes of compliance with the section, "engage in the practice of registered nursing"
28 may include, when approved by the Board, volunteer work as a registered nurse, or work in any

1 non-direct patient care position that requires licensure as a registered nurse.

2 The Board may require that advanced practice nurses engage in advanced practice nursing
3 for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

4 If Respondent has not complied with this condition during the probationary term, and
5 Respondent has presented sufficient documentation of her good faith efforts to comply with this
6 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
7 extension of Respondent's probation period up to one year without further hearing in order to
8 comply with this condition. During the one year extension, all original conditions of probation
9 shall apply.

10 **7. Employment Approval and Reporting Requirements.** Respondent shall obtain
11 prior approval from the Board before commencing or continuing any employment, paid or
12 voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
13 performance evaluations and other employment related reports as a registered nurse upon request
14 of the Board.

15 Respondent shall provide a copy of this Decision to her employer and immediate
16 supervisors prior to commencement of any nursing or other health care related employment.

17 In addition to the above, Respondent shall notify the Board in writing within seventy-two
18 (72) hours after she obtains any nursing or other health care related employment. Respondent
19 shall notify the Board in writing within seventy-two (72) hours after she is terminated or
20 separated, regardless of cause, from any nursing, or other health care related employment with a
21 full explanation of the circumstances surrounding the termination or separation.

22 **8. Supervision.** Respondent shall obtain prior approval from the Board regarding
23 Respondent's level of supervision and/or collaboration before commencing or continuing any
24 employment as a registered nurse, or education and training that includes patient care.

25 Respondent shall practice only under the direct supervision of a registered nurse in good
26 standing (no current discipline) with the Board of Registered Nursing, unless alternative methods
27 of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are
28 approved.

Respondent's level of supervision and/or collaboration may include, but is not limited to the following:

(a) Maximum - The individual providing supervision and/or collaboration is present in the patient care area or in any other work setting at all times.

(b) Moderate - The individual providing supervision and/or collaboration is in the patient care unit or in any other work setting at least half the hours Respondent works.

(c) Minimum - The individual providing supervision and/or collaboration has person-to-person communication with Respondent at least twice during each shift worked.

(d) Home Health Care - If Respondent is approved to work in the home health care setting, the individual providing supervision and/or collaboration shall have person-to-person communication with Respondent as required by the Board each work day. Respondent shall maintain telephone or other telecommunication contact with the individual providing supervision and/or collaboration as required by the Board during each work day. The individual providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to patients' homes visited by Respondent with or without Respondent present.

9. **Employment Limitations.** Respondent shall not work for a nurse's registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse, or for an in-house nursing pool.

Respondent shall not work for a licensed home health agency as a visiting nurse unless the registered nursing supervision and other protections for home visits have been approved by the Board. Respondent shall not work in any other registered nursing occupation where home visits are required.

Respondent shall not work in any health care setting as a supervisor of registered nurses. The Board may additionally restrict Respondent from supervising licensed vocational nurses and/or unlicensed assistive personnel on a case-by-case basis.

Respondent shall not work as a faculty member in an approved school of nursing or as an instructor in a Board approved continuing education program.

Respondent shall work only on a regularly assigned, identified and predetermined

1 worksite(s) and shall not work in a float capacity.

2 If Respondent is working or intends to work in excess of 40 hours per week, the Board may
3 request documentation to determine whether there should be restrictions on the hours of work.

4 **10. Complete a Nursing Course(s).** Respondent, at her own expense, shall enroll and
5 successfully complete a course(s) relevant to the practice of registered nursing no later than six
6 months prior to the end of her probationary term.

7 Respondent shall obtain prior approval from the Board before enrolling in the course(s).
8 Respondent shall submit to the Board the original transcripts or certificates of completion for the
9 above required course(s). The Board shall return the original documents to Respondent after
10 photocopying them for its records.

11 **11. Cost Recovery.** Respondent shall pay to the Board costs associated with its
12 investigation and enforcement pursuant to Business and Professions Code section 125.3 in the
13 amount of \$1,572.50 Respondent shall be permitted to pay these costs in a payment plan
14 approved by the Board, with payments to be completed no later than three months prior to the end
15 of the probation term.

16 If Respondent has not complied with this condition during the probationary term, and
17 Respondent has presented sufficient documentation of her good faith efforts to comply with this
18 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
19 extension of Respondent's probation period up to one year without further hearing in order to
20 comply with this condition. During the one year extension, all original conditions of probation
21 will apply.

22 **12. Violation of Probation.** If Respondent violates the conditions of her probation, the
23 Board after giving Respondent notice and an opportunity to be heard, may set aside the stay order
24 and impose the stayed discipline (revocation/suspension) of Respondent's license.

25 If during the period of probation, an accusation or petition to revoke probation has been
26 filed against Respondent's license or the Attorney General's Office has been requested to prepare
27 an accusation or petition to revoke probation against Respondent's license, the probationary
28 period shall automatically be extended and shall not expire until the accusation or petition has

1 been acted upon by the Board.

2 13. **License Surrender.** During Respondent's term of probation, if she ceases practicing
3 due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation,
4 Respondent may surrender her license to the Board. The Board reserves the right to evaluate
5 Respondent's request and to exercise its discretion whether to grant the request, or to take any
6 other action deemed appropriate and reasonable under the circumstances, without further hearing.
7 Upon formal acceptance of the tendered license and wall certificate, Respondent will no longer be
8 subject to the conditions of probation.

9 Surrender of Respondent's license shall be considered a disciplinary action and shall
10 become a part of Respondent's license history with the Board. A registered nurse whose license
11 has been surrendered may petition the Board for reinstatement no sooner than the following
12 minimum periods from the effective date of the disciplinary decision:

- 13 (1) Two years for reinstatement of a license that was surrendered for any reason other
14 than a mental or physical illness; or
15 (2) One year for a license surrendered for a mental or physical illness.

16 14. **Physical Examination.** Within 45 days of the effective date of this Decision,
17 Respondent, at her expense, shall have a licensed physician, nurse practitioner, or physician
18 assistant, who is approved by the Board before the assessment is performed, submit an
19 assessment of the Respondent's physical condition and capability to perform the duties of a
20 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If
21 medically determined, a recommended treatment program will be instituted and followed by the
22 Respondent with the physician, nurse practitioner, or physician assistant providing written reports
23 to the Board on forms provided by the Board.

24 If Respondent is determined to be unable to practice safely as a registered nurse, the
25 licensed physician, nurse practitioner, or physician assistant making this determination shall
26 immediately notify the Board and Respondent by telephone, and the Board shall request that the
27 Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall
28 immediately cease practice and shall not resume practice until notified by the Board. During this

1 period of suspension, Respondent shall not engage in any practice for which a license issued by
2 the Board is required until the Board has notified Respondent that a medical determination
3 permits Respondent to resume practice. This period of suspension will not apply to the reduction
4 of this probationary time period.

5 If Respondent fails to have the above assessment submitted to the Board within the 45-day
6 requirement, Respondent shall immediately cease practice and shall not resume practice until
7 notified by the Board. This period of suspension will not apply to the reduction of this
8 probationary time period. The Board may waive or postpone this suspension only if significant,
9 documented evidence of mitigation is provided. Such evidence must establish good faith efforts
10 by Respondent to obtain the assessment, and a specific date for compliance must be provided.
11 Only one such waiver or extension may be permitted.

12 **15. Participate in Treatment/Rehabilitation Program for Chemical Dependence.**

13 Respondent, at her expense, shall successfully complete during the probationary period or shall
14 have successfully completed prior to commencement of probation a Board-approved
15 treatment/rehabilitation program of at least six months duration. As required, reports shall be
16 submitted by the program on forms provided by the Board. If Respondent has not completed a
17 Board-approved treatment/rehabilitation program prior to commencement of probation,
18 Respondent, within 45 days from the effective date of the decision, shall be enrolled in a program.
19 If a program is not successfully completed within the first nine months of probation, the Board
20 shall consider Respondent in violation of probation.

21 Based on Board recommendation, each week Respondent shall be required to attend at least
22 one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics Anonymous,
23 Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by the Board.
24 If a nurse support group is not available, an additional 12-step meeting or equivalent shall be
25 added. Respondent shall submit dated and signed documentation confirming such attendance to
26 the Board during the entire period of probation. Respondent shall continue with the recovery plan
27 recommended by the treatment/rehabilitation program or a licensed mental health examiner
28 and/or other ongoing recovery groups.

1. **16. Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent shall
2 completely abstain from the possession, injection or consumption by any route of all controlled
3 substances and all psychotropic (mood altering) drugs, including alcohol, except when the same
4 are ordered by a health care professional legally authorized to do so as part of documented
5 medical treatment. Respondent shall have sent to the Board, in writing and within fourteen (14)
6 days, by the prescribing health professional, a report identifying the medication, dosage, the date
7 the medication was prescribed, the Respondent's prognosis, the date the medication will no
8 longer be required, and the effect on the recovery plan, if appropriate.

9 Respondent shall identify for the Board a single physician, nurse practitioner or physician
10 assistant who shall be aware of Respondent's history of substance abuse and will coordinate and
11 monitor any prescriptions for Respondent for dangerous drugs, controlled substances or mood-
12 altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report
13 to the Board on a quarterly basis Respondent's compliance with this condition. If any substances
14 considered addictive have been prescribed, the report shall identify a program for the time limited
15 use of any such substances.

16 The Board may require the single coordinating physician, nurse practitioner, or physician
17 assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive
18 medicine.

19 **17. Submit to Tests and Samples.** Respondent, at her expense, shall participate in a
20 random, biological fluid testing or a drug screening program which the Board approves. The
21 length of time and frequency will be subject to approval by the Board. Respondent is responsible
22 for keeping the Board informed of Respondent's current telephone number at all times.
23 Respondent shall also ensure that messages may be left at the telephone number when she is not
24 available and ensure that reports are submitted directly by the testing agency to the Board, as
25 directed. Any confirmed positive finding shall be reported immediately to the Board by the
26 program and Respondent shall be considered in violation of probation.

27 In addition, Respondent, at any time during the period of probation, shall fully cooperate
28 with the Board or any of its representatives, and shall, when requested, submit to such tests and

1 samples as the Board or its representatives may require for the detection of alcohol, narcotics,
2 hypnotics, dangerous drugs, or other controlled substances.

3 If Respondent has a positive drug screen for any substance not legally authorized and not
4 reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board
5 files a petition to revoke probation or an accusation, the Board may suspend Respondent from
6 practice pending the final decision on the petition to revoke probation or the accusation. This
7 period of suspension will not apply to the reduction of this probationary time period.

8 If Respondent fails to participate in a random, biological fluid testing or drug screening
9 program within the specified time frame, Respondent shall immediately cease practice and shall
10 not resume practice until notified by the Board. After taking into account documented evidence
11 of mitigation, if the Board files a petition to revoke probation or an accusation, the Board may
12 suspend Respondent from practice pending the final decision on the petition to revoke probation
13 or the accusation. This period of suspension will not apply to the reduction of this probationary
14 time period.

15 18. **Mental Health Examination.** Respondent shall, within 45 days of the effective date
16 of this Decision, have a mental health examination including psychological testing as appropriate
17 to determine her capability to perform the duties of a registered nurse. The examination will be
18 performed by a psychiatrist, psychologist or other licensed mental health practitioner approved by
19 the Board. The examining mental health practitioner will submit a written report of that
20 assessment and recommendations to the Board. All costs are the responsibility of Respondent.
21 Recommendations for treatment, therapy or counseling made as a result of the mental health
22 examination will be instituted and followed by Respondent.

23 If Respondent is determined to be unable to practice safely as a registered nurse, the
24 licensed mental health care practitioner making this determination shall immediately notify the
25 Board and Respondent by telephone, and the Board shall request that the Attorney General's
26 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease
27 practice and may not resume practice until notified by the Board. During this period of
28 suspension, Respondent shall not engage in any practice for which a license issued by the Board

1 is required, until the Board has notified Respondent that a mental health determination permits
2 Respondent to resume practice. This period of suspension will not apply to the reduction of this
3 probationary time period.

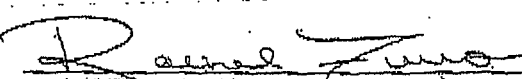
4 If Respondent fails to have the above assessment submitted to the Board within the 45-day
5 requirement, Respondent shall immediately cease practice and shall not resume practice until
6 notified by the Board. This period of suspension will not apply to the reduction of this
7 probationary time period. The Board may waive or postpone this suspension only if significant,
8 documented evidence of mitigation is provided. Such evidence must establish good faith efforts
9 by Respondent to obtain the assessment, and a specific date for compliance must be provided.
10 Only one such waiver or extension may be permitted.

11 19. **Therapy or Counseling Program.** Respondent, at her expense, shall participate in
12 an on-going counseling program until such time as the Board releases her from this requirement
13 and only upon the recommendation of the counselor. Written progress reports from the counselor
14 will be required at various intervals.

15 ACCEPTANCE

16 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
17 discussed it with my attorney, Adam G. Slote. I understand the stipulation and the effect it will
18 have on my Registered Nursing License. I enter into this Stipulated Settlement and Disciplinary
19 Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order
20 of the Board of Registered Nursing.


21
22 DATED: 6/27/12


23 RACHEL ELIZABETH ZUCCO
Respondent

24 I have read and fully discussed with Respondent Rachel Elizabeth Zucco the terms and
25 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
26 I approve its form and content.

27 DATED: _____

Digitally signed by Adam G. Slote
DN: cn=Adam G. Slote, o=Slote & Links, ou,
email=adam@slotelaw.com, c=US,
date=2012.06.28 09:00:34 -07'00


28 Adam G. Slote
Attorney for Respondent

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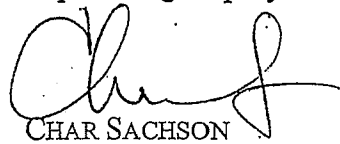
ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

Dated: 6/28/12

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
FRANK H. PACOE
Supervising Deputy Attorney General



CHAR SACHSON
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 2012-549

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 CHAR SACHSON
Deputy Attorney General
4 State Bar No. 161032
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
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Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2012-549

12 **RACHEL ELIZABETH ZUCCO**
13 **1387 1/2 Sunset Ave.**
Arcata, CA 95521

ACCUSATION

14 **Registered Nursing License No. 785263**

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
21 of Consumer Affairs:

22 2. On or about October 11, 2010, the Board of Registered Nursing issued Registered
23 Nursing License Number 785263 to Rachel Elizabeth Zucco (Respondent). The Registered
24 Nursing License was in full force and effect at all times relevant to the charges brought herein and
25 will expire on July 31, 2012, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board of Registered Nursing (Board),
28 Department of Consumer Affairs, under the authority of the following laws. All section

1 references are to the Business and Professions Code unless otherwise indicated.

2 4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent
3 part, that the Board may discipline any licensee, including a licensee holding a temporary or an
4 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the
5 Nursing Practice Act.

6 5. Section 2761 of the Code states:

7 "The board may take disciplinary action against a certified or licensed nurse or deny an
8 application for a certificate or license for any of the following:

9 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

10 ...
11 "(f) Conviction of a felony or of any offense substantially related to the qualifications,
12 functions, and duties of a registered nurse, in which event the record of the conviction shall be
13 conclusive evidence thereof.

14 ..."

15 6. Section 2762 of the Code states:

16 "In addition to other acts constituting unprofessional conduct within the meaning of this
17 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
18 chapter to do any of the following:

19 "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed
20 physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or
21 administer to another, any controlled substance as defined in Division 10 (commencing with
22 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
23 defined in Section 4022.

24 "(b) Use any controlled substance as defined in Division 10 (commencing with Section
25 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
26 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
27 himself or herself, any other person, or the public or to the extent that such use impairs his or her
28 ability to conduct with safety to the public the practice authorized by his or her license.

1 "(c) Be convicted of a criminal offense involving the prescription, consumption, or
2 self-administration of any of the substances described in subdivisions (a) and (b) of this section,
3 or the possession of, or falsification of a record pertaining to, the substances described in
4 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
5 thereof.

6 "(d) Be committed or confined by a court of competent jurisdiction for intemperate use of
7 or addiction to the use of any of the substances described in subdivisions (a) and (b) of this
8 section, in which event the court order of commitment or confinement is prima facie evidence of
9 such commitment or confinement.

10 "(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any
11 hospital, patient, or other record pertaining to the substances described in subdivision (a) of this
12 section."

13 7. Section 490 of the Code provides, in pertinent part, that a board may suspend or
14 revoke a license on the ground that the licensee has been convicted of a crime substantially
15 related to the qualifications, functions, or duties of the business or profession for which the
16 license was issued.

17 8. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
18 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
19 licensee or to render a decision imposing discipline on the license.

20 9. Section 118, subdivision (b), of the Code provides that the expiration of a license
21 shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period
22 within which the license may be renewed, restored, reissued or reinstated.

23 COST RECOVERY

24 10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
25 administrative law judge to direct a licentiate found to have committed a violation or violations of
26 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
27 enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(CRIMINAL CONVICTION)

11. Respondent is subject to disciplinary action under sections 2761(a), 2761(f), 2762(c), and/or 490 in that on or about August 23, 2011, in a criminal proceeding entitled *The People of the State of California v. Rachel Elizabeth Zucco* in Humboldt County Superior Court, Case Number CR1101797, Respondent was convicted by her plea of no contest of violating Vehicle Code section 23152(a) (driving while under the influence of alcohol). Respondent was sentenced to probation for three years, seven days jail time, ordered to complete a First Offender Program, and ordered to pay fines in the amount of \$1,911.00. The circumstances of the conviction are that on or about March 25, 2011 on Highway 101 in Eureka, California, Respondent ran off the road and crashed her vehicle into a sign post. She had a strong smell of alcohol about her person, had difficulty walking, failed field sobriety tests and refused blood alcohol testing. Respondent did not have a California driver's license.

SECOND CAUSE FOR DISCIPLINE

(USING ALCOHOL IN A MANNER DANGEROUS TO SELF OR OTHERS)

12. Respondent is subject to disciplinary action under section 2762(b) in that on or about March 25, 2011 on Highway 101 in Eureka, California, Respondent ran off the road and crashed her vehicle into a sign post. She had a strong smell of alcohol about her person, had difficulty walking, failed field sobriety tests and refused blood alcohol testing. Respondent did not have a California driver's license.

13. Respondent is further subject to disciplinary action under section 2762(b) in that on or about January 9, 2011, she was found passed out in her vehicle on Old Arcata Road in Eureka, California. A Good Samaritan called 911 when he was unable to rouse her. Police arrived, roused her, and noted that Respondent had a strong odor of alcohol about her. The vehicle's engine was running and the windshield wipers were on. Respondent failed field sobriety tests. Her blood alcohol level was .25%.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

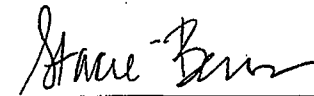
1. Revoking or suspending Registered Nursing License Number 785263, issued to Rachel Elizabeth Zucco;

2. Ordering Rachel Elizabeth Zucco to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED:

March 15, 2012

for 

LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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